

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: M. Rigdon Lentz

Serial No.: 09/709,045

Art Unit: 1647

Filed: November 10, 2000

Examiner: Lorraine Spector

For: *METHOD AND SYSTEM TO REMOVE CYTOKINE INHIBITOR IN PATIENTS*

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SUPPLEMENTAL STATEMENT UNDER MPEP § 2001.06(c)

Further to the Statement under MPEP § 2001.06(c) filed on July 9, 2008, Applicant provides the following additional information.

The above-identified application, U.S.S.N. 09/709,045 was involved in an interference No. 105,413 with U.S. Patent No. 6,379,708 to Howell, et al. Allegations were made by Howell that the Lentz application was invalid under 35 U.S.C. 102, 103, 112, improper inventorship and for inequitable conduct. The Board of Patent Appeals and Interferences ultimately held in Lentz' favor on all of these issues.

The assignees of the '708 patent to Howell then filed an action under 35 U.S.C. 146 in the U.S. District Court, District of Columbia, Cytologic, Inc. and Colorado State University Research Foundation v. BioPheresis GMBH and BioPheresis Technologies, Inc. 1:08-cv-00978-CKK.

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A motion is pending in the U.S. District Court that the Board of Patent Appeals and Interferences improperly declared the interference on the grounds that the claims were not exactly copied within one year.

Additionally, Applicant draws the Examiner's attention to the Supplemental Information Disclosure Statements filed on October 3, 2006, April 10, 2007, October 19, 2007, January 29, 2008, April 29, 2008, July 15, 2008, and March 9, 2009, after the claims were allowed and the interference declared. It has now been determined that some of the cited references may have been known to the Applicant, the undersigned, or the assignee more than three months prior to the filing of the Supplemental Information Disclosure Statements. Any certification under 37 C.F.R. 1.97 should therefore be considered to be withdrawn.

It is believed that no fee is required with this submission. However, should a fee be required, the Commissioner is hereby authorized to charge the fee to Deposit Account No. 50-3129.

Respectfully submitted,

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